

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:18-cv-574-MOC-DSC**

ERIC PLANT, ERIC PLANT, LLC,)	
)	
Plaintiffs,)	
)	
vs.)	<u>ORDER</u>
)	
RAPID EPS LIMITED, et al.,)	
)	
)	
Defendants.)	
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THIS MATTER comes before the Court on Defendants’ Motion to Dismiss Amended Complaint. (Doc. No. 27).

I. BACKGROUND AND DISCUSSION

On September 26, 2018, Plaintiffs filed their initial Complaint in Mecklenburg County Superior Court (Mecklenburg County File No. 18-CVS-18637), which was served on Defendants on or about October 1, 2018. On October 23, 2018, Defendants removed this action to this Court. (Doc. No. 1). On October 29, 2018, Defendants filed their initial Motion to Dismiss. (Doc. No. 2). On December 31, 2018, Plaintiffs filed a Motion to Amend, (Doc. No. 15), which the magistrate judge denied by Order dated February 6, 2019. (Doc. No. 19). On February 20, 2019, Plaintiffs objected to the Magistrate’s Order. (Doc. No. 21). On March 13, 2019, after receiving oral arguments on the matter, this Court sustained Plaintiffs’ objection, granted Plaintiffs’ Motion to Amend, and denied the Motion to Dismiss as moot. (Doc. No. 24). In accordance with the Court’s order, Plaintiffs filed their Amended Complaint the same day, bringing claims against Defendants for fraud and fraudulent inducement, declaratory judgment,

violations of the North Carolina Sales Representatives Commissions Act, violations of the North Carolina Wage and Hour Act, breach of contract or, alternatively, quantum meruit, constructive fraud, conversion, unfair and deceptive trade practices, and punitive damages. (Doc. No. 25). In response, Defendants filed the pending Motion to Dismiss on March 27, 2019. (Doc. No. 27). Plaintiffs filed their memorandum in opposition to the motion to dismiss on April 17, 2019. (Doc. No. 29). Defendants filed their Reply on April 24, 2019. (Doc. No. 30).

The Court will deny the motion to dismiss at this time and hold it under consideration pending further development of the record and summary judgment motions.

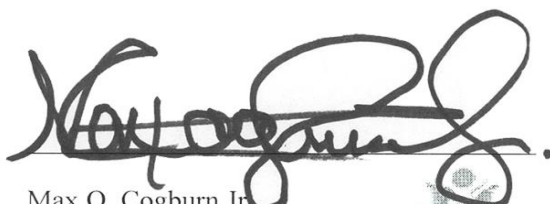
II. CONCLUSION

Defendants' motion to dismiss is denied, pending further development of the record, and the Court will issue a ruling after discovery and the parties' filing of summary judgment motions.

IT IS, THEREFORE, ORDERED that:

1. Defendants' Motion to Dismiss Amended Complaint, (Doc. No. 27), is **DENIED**.

Signed: May 1, 2019



Max O. Cogburn Jr.
United States District Judge